IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

Crl.MC.No. 808 of 2002-A

ST.312/2000 of CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR
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PETITIONER: ACCUSED

M.M.RAJU,MAROTTICKAL HOUSE
CHETTUPUZHA,THRISSUR.

BY ADV. SRI.P.K.ASHOKAN
SMT.S.JEEJABHAI

RESPONDENTS: COMPLAINANT
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1. T.S.PATTABHIRAMAN,S/O.LATE SEETHARAMAYYA SEETHARAMAYYAN,NAICKANAL,THRISSUR,REPRESENTED BY HIS POWER OF ATTORNEY HOLDER T.S.RAMAKRISHNAN, SARADA APPARTMENTS,POONKUNNAM,THRISSUR.

2. STATE OF KERLA,REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

R1 BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
R2 BY PUBLIC PROSECUTOR MR.THOMAS JOHN AMBOOKKEN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.M.P.NO. 539/2002 IN CRL.M.C.NO.808/2002

DISMISSED.

17-1-2007 **SD/-K.R.UDAYABHANU, JUDGE**

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.M.C.NO.808 of 2002

DATED THIS THE 17TH TH DAY OF JANUARY 2007

ORDER

The petitioner, who is the accused in S.T.No.312/2000 in the file of the Chief Judicial Magistrate Court, Thrissur with respect to the offence under Section 138 of the Negotiable Instruments Act on the allegation that the cheque issued by him for a sum of Rs.2,05,000/- when presented got dishonoured for want of sufficiency of funds. The petitioner has sought for getting the proceedings quashed on the ground that the cheque happened to be issued under threat and coercion and that he had directed the Bank not to honour the cheque. It is also alleged that with respect to the incident that preceded the issuance of the cheque, he had complained before the Superintendent of Police vide Annexure-C, but no action was taken. It is also mentioned that the proceedings initiated at his instance with respect to the offence under Sections 294(b), 341, 354, 506(2) of the Indian Penal Code is pending and the same has been stayed vide order in Crl.M.P.No.4531/2001 in Crl.M.C.No.5228/2001 by this Court. According to him, the proceedings under Section 138 of the Act has been issued only to harass him with mala fide intention. He has also

mentioned that there is a contradiction in the notice sent preceding the initiation of the complaint under Section 138 of the Act. The date of cheque is different from that is mentioned in the complaint.

2. I find that all the matters raised herein are to be decided on facts and the proceedings under Section 482 Cr.P.C.is not the appropriate relief. The petitioner may raise the contention raised herein before the trial court.

In the result the Crl.M.C.is dismissed with a direction that the petitioner may raise the contention before the trial court and the trial court would adjudicate the matter on merits.

K.R.UDAYABHANU, JUDGE

ks.

p.s.to judge

K.R.UDAYABHANU, J

CRL.M.C.NO. 808 OF 2002

ORDER

17-1-2007